

# **EXHIBIT D**

JILL SHWINER - 9/11/2020

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RAFAEL FOX, PAUL )  
D'AURIA, and JILL )  
SHWINER, )

Plaintiffs, )

v. )

STARBUCKS CORPORATION )  
d/b/a STARBUCKS COFFEE )  
COMPANY, )

Defendants. )  
\_\_\_\_\_ )

CIVIL ACTION  
NO.  
19-CV-4650

ORAL DEPOSITION OF JILL SHWINER

(TAKEN REMOTELY)

Friday, September 11, 2020

Reported by:

KIM A. McCANN, RMR, CRR, CSR

JOB NO. 183854

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Q. And tell a little about your work experience. What did you do after you finished high school?

A. I went to work at Asu, a leather manufacturer at Etienne Aigner, and I was an assistant to the president there. And then after that I went to work for AVP.

Q. ADP?

A. AVP.

Q. Okay. And so what year did you go to AVP?

A. 1990.

Q. And what was your first job AVP?

A. Clerical.

Q. And how long did you work -- yeah, how long did you work as a clerical worker at AVP?

A. Roughly -- I can't be exact, but I'd say roughly ten years.

Q. And after ten years in clerical, did you take on another position at AVP?

A. More of a managerial role.

Q. Tell me about the managerial role you took an at AVP.

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A. We hired some more office staff, so I oversaw the clerical staff and what they were doing in a more supervisory role, and I was taking a more active role in inventory and some of the technicians, what they did, reporting any problems.

Q. Okay. So was that approximately 2000 you took on a managerial role?

A. Yes.

Q. And tell me more specifically about your responsibilities in your managerial role.

A. Again, I oversaw the office staff and made sure that they were doing their billing correctly, they were doing scheduling correctly, they were keeping on with the customer service calls, that nobody was going off the schedule, and that I was overseeing the technicians to make sure that they were completing their tasks, their jobs, everything completed correctly, that the customers were happy with the service.

Q. Okay. And how long did you serve in that managerial role?

A. Until I left.

Q. Okay. In 2000 -- what year, again,

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2 A. No.

3 Q. What did you work?

4 A. I was on for 24 hours a day.

5 Q. So tell me a typical workday let's  
6 say from 2010 to 2018?

7 A. As soon as I'd get up, review any  
8 emails that came in, address any problems that  
9 may have come up, dispatch any technicians that  
10 -- any problems or to any customers that were  
11 needing immediate assistance; go into the office,  
12 do any paperwork that needed to be done, any  
13 other correspondence, go over any problems with  
14 any of the office staff that may have come up  
15 that request any. It fluctuated, so whatever I  
16 was pulled in any direction to do.

17 Q. Anything else that you did on a  
18 typical day?

19 A. Sometimes I had to meet with  
20 customers and --

21 Q. I'm sorry, I didn't hear you.

22 A. Sometimes I had to go into the city  
23 for -- if there was a customer that was  
24 experiencing a problem to meet on-site with them  
25 and do a walk-through, and then evaluate if there

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was a rodent siting maybe where the rodent was coming in from, trap the rodent, remove it, any pest control issues.

Q. And what else did you do on a typical day?

A. That was pretty much it. It fluctuated. I did not have a set day.

Q. Did you typically go into the office at some point during the day?

A. Typically, yes.

Q. And what time did you usually go in?

A. Sometimes between 10:00 and 11:00. I would do some work from home.

Q. And when you went in on a typical day between 10:00 and 11:00, when did you typically leave the office?

A. Either 9:00 at night.

Q. So you in the office for a good ten, twelve hours?

A. Yeah. Sometimes during the day, I would have to leave and go on-site to a customer, and then I would return to the office.

Q. And how often would you leave the office and go on-site?

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2 Were there any other times that you  
3 saw that product other than during that time  
4 period?

5 MR. GRAFF: Objection.

6 A. Yes.

7 Q. And when was that?

8 A. The time period that I've seen it  
9 since that?

10 Q. Correct.

11 A. Would be -- would be multiple times  
12 -- sorry, my dog is barking. There would be -- I  
13 saw it frequently in 2012 and on in Starbucks. I  
14 did occasionally see it at the Le Pain Quotidien,  
15 and that was around 2011.

16 Q. Okay. Anywhere else?

17 A. I can't be exact prior to those  
18 dates, but I know that I was aware of it was in  
19 2011.

20 Q. Okay. And in 2011 at Le Pain  
21 Quotidien, how often do you recall seeing that  
22 product?

23 A. I can't be exact, but it was less  
24 than ten times. But, again, I can't be exact.

25 Q. Okay. And you said you saw it at

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Starbucks starting in 2012, I think you said?

A. 2013. I'm sorry.

Q. '13. And do you remember -- do you recall how often you saw it at Starbucks from 2013 on?

A. I can't be exact, but I would say -- I -- I can't be exact.

Q. Okay. Do you have an approximation?

A. I would say an approximation would be at least ten times a year.

Q. Ten times per year. And what were the occasions that you would see it?

A. That I personally or that I saw photos?

MR. GRAFF: Objection.

Q. Let's start with personally and then we'll go to photos. Actually, let me rephrase it.

When you say you saw it ten times a year, was that both in person and photos?

A. I don't -- I don't recall to give an exact number. So I --

Q. Okay. So my question is of the times you saw it, were those that you were describing,



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were those times you both personally saw it and times that you saw photographs of the product?

A. Yes.

Q. Both?

A. Yes.

Q. Got it. And I think you -- I think you said you don't recall the number of times you saw the product personally and the number of times you saw pictures of it; correct?

A. An exact number, no.

Q. Okay. Again, I think you may have answered this, but you said you read about the product. And my question is: Do you recall when you first started reading about the product, the DDVP product?

A. I don't recall.

Q. Okay. Do you remember a product called Hot Shot?

A. Yes.

Q. And what's a Hot Shot?

A. Hot Shot is a -- also a dichlorvos product.

Q. And are they one in the same?

A. Yes.

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any more?

A. Oh, there was a few downtown.

Q. Any recollection where?

A. I do. The name is just not coming to -- it's not coming to mind.

Q. Okay. Just see if the best you can recall, as you're doing, any other locations you recall seeing the products and when?

A. Yeah, I can't be -- I can't be exact.

Q. Okay. No problem. On the occasions that you've just shared with us --

A. Excuse me. Macy's.

Q. Macy's. Okay. And when did you see the Macy's?

A. Oh, that -- it was 2016, 2015.

Q. All right. Good. Any other locations you recall?

A. That -- that's it for what I can recall at this particular time.

Q. Okay. And at each of those locations you just mentioned, approximately how long did you stay at the location when you observed the product we're talking about?

MR. GRAFF: Objection.

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as the tracks.

Q. Was AVP responsible for trying to rid the facilities of flies and rodents?

MR. GRAFF: Objection.

A. We were responsible for addressing any -- alerting any facility issues that were creating livening conditions for mice. We would set traps and close any openings and alert to any conditions that were attractive to mice or creating a condition that was conducive to them -- their activity.

Q. And flies?

A. Flies, yes. It was a partnership with --

Q. Any other insects?

A. Cockroaches.

Q. Anything else AVP was hired to do?

MR. GRAFF: Objection.

Q. You can answer.

A. We were -- yeah, we were hired to control insects. Termites were not part of the contract. Certain insects were excluded from the contract.

Q. Anything else?

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describe the pest strip product as far as what danger it posed?

MR. GRAFF: Objection.

Q. You may answer.

A. Could you rephrase that?

Q. In other words, you testified that the pest strip product shouldn't be in a room where there are people, I think you said.

A. That's only on the label. That's what the label said.

Q. What else does the label say on it?

A. It says -- can you be more specific?

Q. Well, in other words, what's your recollection of what is contained in the pest strip product?

MR. GRAFF: Objection.

A. Dichlorvos.

Q. I can't hear you.

A. Oh, I'm sorry. Dichlorvos.

Q. Yeah.

A. That's my understanding.

Q. So my question is: Do you have an understanding of what that -- you know, the risks of exposure to that product?

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A. Yes. It's as I stated before the -- it's the way that the mode of action is of that product.

Q. I don't want you to read from anything. Just your recollection.

A. No, I'm sorry. It's my phone.

Q. Oh, sorry.

A. Because it's a -- it affects the neurotransmitters which affect the nervous system. So I'm not a medical doctor, but from my understanding is it can kill you.

(Exhibit 12 was marked.)

Q. Okay. Let's go to the next exhibit. Take a look at Exhibit 12. Can you take a look at this document?

A. Sure. Okay. Yes, I read it.

Q. At the bottom there, it says, "Thanks, Jill! Just to follow up. This is what the DM is seeing and will have them removed ASAP."

MR. GRAFF: When you say at the bottom there, are you looking at the bottom of the first page of the document?

MR. WEBER: The page we were just

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I still get.

Q. Okay. And I think you said you moved to your home a couple of years ago with your partner?

A. 2000 -- yes.

Q. Okay. And does your son live with you or not?

A. Not right now.

Q. Okay. And to the best of your recollection, have you given us all the health-care providers that you've seen over the last five or ten years?

A. To the best of my recollection, yes.

Q. Okay. Ever see a psychiatrist?

A. Yes.

Q. When?

A. 2000 -- 2011 or '12.

Q. Okay. And the purpose for seeing the psychiatrist at that time?

A. For the ADD or ADHD.

Q. Okay. And did the doctor prescribe medicine for you at the time?

A. Yes.

Q. Is that the medicine you referred to

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A-X-O-S. They're a brokerage firm.

Q. And what does he do there?

A. He's a operations manager  
for settlements --

Q. Before you were contacted by  
Mr. Graff, had you considered filing a lawsuit --

MR. GRAFF: Objection.

Q. Before you were contacted by your  
attorneys, had you considered filing a lawsuit  
against Starbucks?

MR. GRAFF: Objection.

Q. You can answer.

A. Well, before I was in contact with  
the attorneys?

Q. Correct.

A. I had not. I didn't know that was  
something I could do.

Q. And how would you describe your  
emotional state of mind right now?

A. At this moment, anxiety comes to mind  
is a word I would use to describe. But I'm from  
New York, so I'm tough.

Q. It goes with the territory.

A. Well, it helped with rodent capture.

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It's hard to be vulnerable and admit that -- I'll just say that I have a lot of anxiety.

Q. Did you have that anxiety when you saw your physician to get the medicines you're on now, the ritalin and the other medicine?

A. Ritalin is not a treatment for anxiety.

Q. When did you first experience anxiety?

MR. GRAFF: Objection.

Q. You can answer.

A. I can give you an approximate date, year.

Q. Yeah, sure.

A. It started about 2014, '15 when I was getting, like, the heart palpitations, like, out of nowhere and the chest pain. Like that medication, the calcium channel blocker, that's supposed to help.

Q. Right. Now, when you first experienced that anxiety, did you see a doctor?

A. Well, I didn't have anxiety before, so I didn't know that was part of anxiety. But I used, like, self help -- I don't want to be on a



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lot of medication, so self help to talk myself down and help myself out of any anxiety attack.

Q. My question is did you see a doctor in 2018 for anxiety?

A. Oh, 2018, I'm sorry. I did not.

Q. What about 2017?

A. I did not.

Q. 2016?

A. 2016, no, I did not.

Q. What about 2019?

A. No, I did not. No, you can't get to a doctor.

Q. What about 2020?

A. Oh, 2020. I'm sorry. Wrong year. No.

Q. Okay.

MR. WEBER: I don't have any further questions.

MR. GRAFF: I don't have any questions, except just note on the record that we request the right to review and make corrections under Rule 30(b)(1). Thank you.

(Time noted - 2:26 p.m.)

**From:** Margaret Kis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A6CDA3BFE65848D18D36F05E04D6E347-MKIS@STARBUCKS.COM]  
**Sent:** 9/29/2017 12:46:20 PM  
**To:** jillavptermite@aol.com  
**Subject:** Re: Hot Shots - Pest strips

Ok good

Sent from my iPhone

On Sep 29, 2017, at 11:42 AM, "jillavptermite@aol.com" <jillavptermite@aol.com> wrote:

He has been.

--

Jill Shwiner  
AVP Termite & Pest Control of NY  
4313 Arthur Kill Road, S.I. NY  
(O) 718-967-9800  
(C) 732-740-1037

Friday, 29 September 2017, 11:35AM -04:00 from Jill Shwiner [avptermitesbux@gmail.com](mailto:avptermitesbux@gmail.com):

----- Forwarded message -----

From: "Margaret Kis" <[mkis@starbucks.com](mailto:mkis@starbucks.com)>  
Date: Sep 29, 2017 10:40 AM  
Subject: FW: Hot Shots - Pest strips  
To: "Jill Shwiner ( [avptermitesbux@gmail.com](mailto:avptermitesbux@gmail.com))" <[avptermitesbux@gmail.com](mailto:avptermitesbux@gmail.com)>  
Cc:

IF PAUL FINDS THEM, TOSS THEM OUT,

